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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,008	12/16/2003	Lior Porat	5760-14500	4517
35690 7590 11/26/2007 MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. P.O. BOX 398 AUSTIN, TX 78767-0398			EXAMINER LONG, ANDREA NATAE	
			ART UNIT 2176	PAPER NUMBER
			MAIL DATE 11/26/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/737,008

Applicant(s)

PORAT ET AL.

Examiner

Andrea N. Long

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/11/2007 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 10, 19, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Planas et al (US Patent 6112015), hereinafter "Planas" in view of Glaser (US Patent 5889520), hereinafter "Glaser".**

For the convenience of the Applicant, the Examiner has pointed out particular references contained in the prior arts of record in the body of this action. Although the specified citations are representation of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. The Applicant should consider the entire reference(s) as applicable as to the limitations of the claims.

As to independent claims 1, 10, 19, and 28-40, Planas teaches monitoring a plurality of network objects (column 2 lines 52-54), wherein said monitoring includes tracking one or more

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attributes (states and statuses) associated with each of the network objects (column 2 lines 63-67);

displaying a plurality of objects each corresponding to a respective one of the network objects (column 2 lines 26-28, Fig. 4a);

in response to detecting a change in the one or more attributes associated with a given network object, altering the appearance of the corresponding object to reflect said change (column 8 lines 17-25, Fig. 20 → Planas teaches when the state or status changes for a network object, the attributes (e.g. border, texture, or perimeter) change or modifiers are added). Planas does not explicitly teach monitoring application tiers and wherein the application tiers execute on one or more server computers, wherein said monitoring is performed by agent software executing on each of the one or more server computers. Glaser teaches a system similar to that of Planas, which provides monitoring of a multi-tier network (column 7 lines 28-42). Monitoring of the application tiers is handled by a Rapid Application Development tool (column 4 lines 48-67). Glaser additionally provides visual and graphical representations of objects (app files), which provides a visual indication on the performance of the application tiers (column 8 line 38 through column 9 line 7).

It would have been obvious to one skilled in the art at the time the invention was made to have expanded the monitoring system of Planas by combining the teaches of monitoring application tiers of Glaser to provide detailed, easily conveyed, simplified view of the network connectivity, activities, and performance to a user.

As to dependent claim 29, 36, and 40, note the discussion above of Planas' monitoring system and implementing that system to include the monitoring of application tiers. In addition Glaser teaches wherein the application tiers comprise on or more of a database software application, a storage software application or a web service software application (Fig. 6).

As to dependent claim 30, Planas teaches monitoring the performance of network objects. Planas does not teach application tiers and determining a performance view across a plurality of the application tiers. Glaser teaches application tiers and determining a performance view across a plurality of the application tiers (column 8 lines 38-67).

It would have been obvious to one skilled in the art at the time the invention was made to have expanded the monitoring system of Planas by combining the teaches of monitoring application tiers of Glaser to provide detailed, easily conveyed, simplified view of the network connectivity, activities, and performance to a user.

As to dependent claim 31, Planas teaches monitoring the performance of network objects. Planas does not teach application tiers and measuring segmented response times between at least two application tiers. Glaser teaches application tiers and measuring segmented response times between at least two application tiers (column 8 lines 55-65).

It would have been obvious to one skilled in the art at the time the invention was made to have expanded the monitoring system of Planas by combining the teaches of monitoring application tiers of Glaser to provide detailed, easily conveyed, simplified view of the network connectivity, activities, and performance to a user.

As to dependent claim 32, 33, 34, 35, 37, 38, and 39, note the discussion above, Planas teaches a network monitoring system which provides visual indicators of attributes of objects within the network. Planas does not teach application tiers and agent modules executing on the application tiers. Glaser teaches the shortcomings of Planas. Glaser discloses that the application tiers can be implemented on one or more computer servers (column 3 lines 25-29) and having a Rapid Application Development tool for monitoring the application tiers. Glaser specifically teaches three tiers which include a database application, application server, and a storage application (Fig. 6). As stated before being that each application can be implemented on different servers, that infers to one skilled in the art that the Rapid Application Development tool would be implemented on each server to collect, store, and display information accordingly.

It would have been obvious to one skilled in the art at the time the invention was made to have expanded the monitoring system of Planas by combining the teaches of monitoring application tiers of Glaser to provide detailed, easily conveyed, simplified view of the network connectivity, activities, and performance to a user.

4. Claims 2-4, 6, 7, 11-13, 15, 16, 20-22, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Planas in view of Glaser in further view of Enchanted Learning (Graphic Organizers, web page updated 10/03/2003), hereinafter "Enchanted Learning".

As to dependent claims 2, 11, and 20, Planas teaches objects (Figs. 2a through 2d) and indicators (Figs. 5 through 19). However, Planas does not teach wherein each of the plurality of

objects includes a core object and one or more indicators in proximity to the core object.

Enchanted Learning teaches using star graphs to organize data about multiple traits or attributes (indicator) associated with a single topic (core object) (page 6, Fig. 1).

It would have been obvious to one skilled in the art at the time the invention was made to use a star diagram to represent a performance system to give operators the ability to quickly visually interpret the state of the network at any time (column 4 lines 66-67 → Planas) and is a pictorial way of constructing knowledge and organizing information which can convert and compress information into a structured, simple-to-read, graphic display (page 1 → Enchanted Learning).

As to dependent claims 3, 12, and 21, Planas teaches wherein said altering comprises altering the appearance of the one or more indicators (column 12 lines 10-31).

As to dependent claims 4, 13, and 22, Planas teaches wherein said altering further comprises altering the color of the one or more indicators (column 12 lines 10-31).

As to dependent claims 6, 15, and 24, note the discussion above, Planas teaches indicators. However, Planas does not teach wherein the one or more indicators are arranged around the displayed object. Enchanted Learning teaches using star graphs to organize data about multiple traits or attributes (indicator) associated with a single topic (core object) (page 6, Fig. 1).

It would have been obvious to one skilled in the art at the time the invention was made to use a star diagram to represent a performance system to give operators the ability to quickly visually interpret the state of the network at any time (column 4 lines 66-67 → Planas) and is a

pictorial way of constructing knowledge and organizing information which can convert and compress information into a structured, simple-to-read, graphic display (page 1 → Enchanted Learning).

As to dependent claims 7, 16, and 25, Planas teaches a plurality of indicators, note the discussion above. However, Planas does not teach wherein each of the plurality of indicators corresponds to a different attribute of the network objects. Enchanted Learning teaches a star diagram that is used to organize data about multiple attributes associated with a single topic.

It would have been obvious to one skilled in the art at the time the invention was made to use a star diagram to represent a performance system to give operators the ability to quickly visually interpret the state of the network at any time (column 4 lines 66-67 → Planas) and is a pictorial way of constructing knowledge and organizing information which can convert and compress information into a structured, simple-to-read, graphic display (page 1 → Enchanted Learning).

5. Claims 9, 18, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Planas in view of Glaser in further view of McMillian et al (US Patent 5926176), hereinafter “McMillian”.

As to dependent claims 9, 18, and 27, note the discussion above, Planas teaches monitoring the performance of a network and objects being connected (column 5 lines 49-65). However, Planas does not teach application tiers and wherein each of the one or more of objects

is connected by a directional arrow, wherein the directional arrow represents the data flow between the pluralities of network objects. Glaser teaches monitoring of application tiers. McMillian teaches using a flowchart (Fig. 3, column 1 lines 39-43). It is well known that a flowchart uses direction arrows to show the flow of information.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have used a flowchart to illustrate a performance monitoring system to make it easier for an engineer or programmer to visualize how the application's performance is operating (column 1 lines 39-39).

6. Claims 5, 14, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Planas in view of Glaser in further view of Enchanted Learning in further view of McMillian.

As to dependent claims 5, 14, and 23, Planas as modified by Enchanted Learning teaches an alert (alarm) "Critical", "Major", and "Minor", with each alarm being associated with a color. No alarm would be the normal color of the object (column 12 lines 10-43). However, Planas does not teach coloring the one or more indicators blue for a no-alert status, coloring the indicators yellow for a near- critical alert status, and coloring the indicators red for a critical alert status. McMillian teaches runtime conditions of with the following color scheme of red to indicate blocks executed every time, yellow to indicate blocks executed at least once but not every time, and blue to indicate never executed (column 7 lines 10-15). It is reasonable for the color scheme of McMillian to be equivalent to coloring the one or more indicators blue for a no-

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alert status (never executed), coloring the indicators yellow for a near- critical alert status (executed as least once but not always executed), and coloring the indicators red for a critical alert status (always executed).

It would have been obvious to one skilled in the art at the time the invention was made to have combined the alarms of Planas as modified by Enchanted Learning with the coloring scheme of McMillian to readily communicate to the human operator which alarm is associated with the object.

7. Claims 8, 17, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Planas in view of Glaser in further view of Enchanted Learning.

As to dependent claims 8, 17, and 26, note the discussion above, Planas as modified by Enchanted Learning teaches monitoring attributes. However, Planas does not teach wherein the monitored attributes include performance trending, current performance, current load, load trending, service, maintenance, and a custom aspect. Official Notice is taken that it is old and well known that the attributes of performance trending, current performance, current load, load trending, service, maintenance, and a custom aspect, which take place in application performance monitoring systems, which is also taught in Applicant's Background of the Invention, page 2 lines 1-8.

It would have been obvious to one skilled in the art at the time the invention was made to have included attributes of performance trending, current performance, current load, load

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trending, service, maintenance, and a custom aspect, to account for a complete and accurate performance monitoring system.

Response to Arguments

8. Applicant's arguments with respect to claims 1, 10, 19, and 28 have been considered but are moot in view of the new ground(s) of rejection as necessitated by the amendments.

9. In response to applicant's argument that the Enchanted Learning article is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Enchanted Learning is not exclusively in the field of children's learning. Enchanted Learning's main focus is on constructing knowledge and organizing information, which is the same as the Applicant's invention and Planas. The references and the Applicant's invention are all dealing with providing information to a user in an efficient, clear, and simple format for a user's convenience. Therefore the references are analogous in art and would prompt one skilled in the art to combine the references.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea N. Long whose telephone number is 571-270-1055. The examiner can normally be reached on Mon - Thurs 6:00 am to 3:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Hutton can be reached on 571-272-4137. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Andrea Long
November 21, 2007

William L. Bashore
WILLIAM BASHORE
PRIMARY EXAMINER